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Political Liberalism and Ecological Justice

My own view is that the compatibility question depends entirely on one's terms of reference: environmentalism and liberalism are compatible, but ecologism and liberalism are not.

Dobson 2000, 165

Abstract: Liberalism and ecologism are widely regarded as incompatible. Liberalism and (anthropocentric) environmentalism might be compatible but liberalism and (non-anthropocentric) ecologism are not. A liberal state cannot promote policies for ecological or ecocentric reasons. An individual cannot be both a liberal and a committed advocate of ecologism. This paper challenges these claims. It is argued that Rawls's 'political liberalism' is compatible with ecologism and, in particular, the idea of 'ecological justice'. A Rawlsian state can promote ecological justice. A committed political liberal can also be a committed advocate of ecological justice. The argument is developed through a close textual examination of Rawls's brief discussion of our duties to 'animals and the rest of nature'. Rawls leaves far more scope for liberal ecologism than his critics have suggested. The proposed version of liberal ecologism is defended against charges of substantive and procedural bias toward humans and against nonhuman nature. Liberal ecologism may not be enough for some ecologists—especially 'ecological constitutionalists' seeking constitutional protection for nonhuman nature—but it is a serious and defensible political and moral theory.

0. Introduction

Andrew Dobson's view of the incompatibility of liberalism and ecologism is common among environmental political theorists. On most accounts a genuinely ecological ethic demands more than liberalism can offer. More sympathetic theorists might concede that "green politics is not 'anti-liberal' so much as 'post-liberal'" but it is often unclear how much of the liberal position remains intact (Barry 1999, 92).¹ Of course, there are exceptions to any rule. Marcel Wissenburg (1998), for example, has defended a 'green liberalism' that aims to derive genuinely radical environmental implications from genuinely liberal commitments. However, Wissenburg's account—like most attempted liberal accounts²—is an-

¹ See also Eckersley 1992, 30. Eckersley's concession is that "the enduring liberal values of tolerance for diversity, basic human rights (e.g., freedom of speech, assembly and association), and . . . limited government indicates that emancipatory political theory is decidedly *post*-rather than *anti*-liberal."

² Hailwood 1999 is a notable exception.

thropocentric in a way that many ecologists might find unsatisfactory. For Wisenburt the fundamental ‘*loci* of value’ are human beings not animals, plants, species or ecosystems.³ Indeed, it seems that “[at] its foundation, liberalism is concerned with the lives of individual humans, not with plants and animal species” (Coglianese 1998, 56).

If this is correct, liberalism is incompatible with any ecocentric theory that conceives of the nonhuman as being a fundamental locus of value. Of course, “incompatibility” does not mean that liberals should prohibit the expression of ecocentric views. Rights to freedom of expression should offer ecologists the same protections as anyone else who holds an eccentric or extreme political, ethical or religious doctrine. Instead, the incompatibility lies at two levels. First, an individual cannot be both liberal and ecologist. Second, a liberal state cannot promote policies for ecological or ecocentric reasons.

In this paper, I propose to challenge both of these ‘incompatibilities’. I want to claim that liberal individuals *can* be ecologists and liberal states *can* promote policies justified on ecocentric grounds. It is important to notice the contingent nature of these claims. I am not suggesting that liberals or liberal states *must* be ecocentric but merely that there is nothing about liberalism that precludes a commitment to ecologism. As Dobson suggests, everything in this kind of venture “depends . . . on one’s terms of reference”. In other words, the key issues are how we understand liberalism and ecologism. The account of liberalism that I propose to discuss is very specific in the sense that it is associated with a single theorist, namely, John Rawls. Rawls’s ‘political liberalism’ is the leading representative of mainstream contemporary liberal theory. Therefore, a successful defence of the claim that Rawls’s liberalism is compatible with ecologism should be a significant contribution to the ‘compatibility’ debate. I will not adopt the same kind of author-centred approach to ecologism because my aim is not to show that liberals can be some particular kind of ecologist but rather that many forms of ecologism may be compatible with liberalism. Instead, I will focus on an idea that seems—in some form—to be an important part of many versions of ecologism, namely, ‘ecological justice’. I understand the concept of ecological justice to refer to justice between humans and nonhuman nature.

It is likely that informed readers would consider that the chosen starting points render the proposed compatibilist project hopeless. Typically, Rawls’s liberalism is understood as part of ‘mainstream American liberalism’ and the key features of this kind of liberalism are seen as “antithetical to environmental policies” (de-Shalit cited in Barry 2001, 66). Moreover, ecological *justice* as opposed to ‘ecological virtue’ or even ecological duty is likely to be considered especially incompatible with a liberal—especially a Rawlsian—theory. I want to suggest that there may be more scope for the compatibilist project than is commonly assumed even in this ‘difficult case’.

The paper is divided into three sections. The first section briefly introduces the concept of ecological justice. I note some variants of the concept but not with the immediate intention of ruling any of them out. The second section defends the claim that Rawlsian political liberals and a Rawlsian liberal state

³ The phrase is from Norton 2003, 164.

can endorse policies for reasons grounded in comprehensive ecological doctrines. My approach is to carefully examine Rawls's own very brief discussions of our relations to 'animals and the rest of nature' in his two major works. I argue that contrary to popular belief there is nothing in Rawls's political liberalism to exclude the possibility of liberal ecologism. Finally, section three considers whether or not ecologists could accept liberal ecologism as I have outlined it. In particular, I consider two possible objections, namely, that liberal ecologism is substantively and procedurally biased toward humans. I don't dispute these claims. Instead, I argue that the extent of the bias is consistent with many versions of ecologism. I conclude that if there is a problem for liberal ecologism it lies in ecologism's uneasy relationship with democracy.

1. Ecological Justice

Brian Baxter (1999, 75; 2005) defines "ecological justice" as "justice between human beings and the rest of the natural world". It is to be distinguished from "'environmental justice', which concerns the distribution of environmental benefits and burdens among human beings" (Baxter 1999, 75).⁴ I have argued elsewhere that Rawls's political liberalism is compatible with environmental justice (Bell 2004; 2002). However, environmental justice is consistent with even a "strong anthropocentrism", which sees "the nonhuman world purely as a means to human ends" (Fox cited in Dobson 2000, 51). Advocates of environmental justice merely insist that the instrumental value of the environment to humans should be recognised in a theory of social justice or justice among humans. Ecological justice makes the much more radical claim that justice extends beyond relations among humans so that we can talk about "justice to nature" (Low/Gleeson 1998, 134).

Ecological justice is a concept with many different conceptions or interpretations.⁵ I do not propose to provide a catalogue of alternative conceptions but I do want to briefly highlight some of the dimensions of the concept. In particular, I want to consider three questions. First, who or what should be the recipients of ecological justice? Second, what should be distributed among recipients of ecological justice? Third, what principle of distribution should be used?⁶

Many answers have been offered to the first question. Most commonly, the community of justice has been extended to include nonhuman individuals. The minimal versions of this answer are familiar from animal rights literature. More extended biocentric or "life-centered" theories use the same approach but adopt less restrictive criteria for inclusion (Taylor 1986, 14). For example, Paul Taylor has argued that any "entity-having-a-good-of-its-own" should be treated as a "moral subject" (1986, 60; 1986, 60). On Taylor's account, "all animals, however, dissimilar to humans they may be, are beings that have a good of their own ... [and] all plants are likewise beings that have a good of their own" (1986,

⁴ Baxter takes the distinction from Low/Gleeson 1998, 21.

⁵ See Rawls 1999, 5 on the concept-conception distinction.

⁶ The questions are drawn from the analytical framework used by Dobson 1998, 63.

66). Therefore, the community of moral subjects—that is the “parties . . . [to be] treated fairly”—must include all animals and plants (Taylor 1986, 260). More ambitious theories have extended the community of justice to include species as well as individuals. For example, Brian Baxter (1999, 80; see also Dobson 1998, 192) suggests that “when life-forms are of low degrees of individuality . . . then the prime object of moral concern, that which is morally considerable, is the species. With life-forms showing high degrees of individuality the prime objects of moral concern are the individual specimens, although even here the species is not devoid of moral considerability.” Yet more ambitious theories extend moral standing to ecosystems. For example, Lawrence Johnson (1991, 162–3) claims, “species may not be the only wholes that have morally significant interests I hold that a wilderness or an ecosystem is an entity/life process that has [morally considerable] interests.”

Answers to the second question—what should be distributed?—have been formulated in different ways but they all share a common theme. The emphasis is firmly on providing sufficient protection and opportunity to allow members of the community of justice to live according to their own forms of life. For example, Baxter (1999, 95) talks about “morally considerable entities” having the “opportunity to exist, flourish and develop in accordance with their natures”. Similarly, Robyn Eckersley (1995, 181) suggests “a *prima facie* right or freedom of all life-forms to unfold in their own ways”. In other words, the good to be distributed is a particular freedom—the positive freedom to live to “the fullness of their natural existence” (Low/Gleeson 1998, 157).

Finally, the third question—what principle of distribution?—has been answered in two principal ways. The first answer is “biospherical egalitarianism”, according to which each member of the community of justice is worthy of equal consideration and should *prima facie* be entitled to an equal share of the good to be distributed (Naess cited in Dobson 2000, 43). The second answer is “to each entity according to its (unequal) moral worth”. Many versions of ecologism attribute unequal moral worth (or ‘intrinsic value’) to members of the community of justice. For example, Warwick Fox suggests that “organisms are entitled to moral consideration commensurate with their degree of central organisation (or capacity for richness of experience)” (Fox cited in Dobson 2000, 44). On this second principle, we should not distribute the good equally but rather when conflicts arise we should give (some degree of) priority to those members of the community of justice that have greater moral worth.

2. Rawls on Ecological Justice

Rawls has very little to say about the environment. However, he does raise the issue of ‘justice to nature’ in both *A Theory of Justice* and *Political Liberalism*. In *Theory* Rawls notes “the limits of a theory of justice”:

“Not only are many aspects of morality left aside, but no account is given of right conduct in regard to animals and the rest of nature. A conception of justice is but one part of a moral view. While I have

not maintained that the capacity for a sense of justice is necessary in order to be owed the duties of justice, it does seem that we are not required to give strict justice anyway to creatures lacking this capacity.” (Rawls 1999, 448)

Rawls seems to suggest that “animals and the rest of nature” are not part of the community of justice because they “lack the capacity for a sense of justice”. In other words, only (potential and actual) moral agents can be members of the community of justice.⁷

However, Rawls does equivocate slightly when he suggests that “it does seem that we are not required to give *strict* justice anyway to creatures lacking this capacity” (emphasis added). It is unclear why Rawls uses the phrase “strict justice” rather than “justice”. One possibility is that “strict justice” is a synonym for “human justice” or the principles of justice that Rawls has defended for governing human relationships in a society. On this interpretation, his point might be that the principles of justice appropriate to human-nonhuman relations would not be the same (and presumably would not be as ‘strict’ or as demanding) as the principles of justice appropriate to human relations.

The sentences immediately following Rawls’s use of the phrase “strict justice” may suggest something slightly different:

“But it does not follow that there are no requirements at all in regard to [animals], nor in our relations with the natural order. Certainly it is wrong to be cruel to animals and the destruction of a whole species can be a great evil. The capacity for feelings of pleasure and pain and for the forms of life of which animals are capable clearly impose duties of compassion and humanity in their case.” (Rawls 1999, 448)

Rawls believes that we have “duties” to sentient individual animals (and perhaps some species).⁸ However, he describes them as “duties of compassion and humanity” rather than duties of justice. The language of “duties” makes it clear that we are not free to treat animals as we please; “compassion and humanity” are not supererogatory. Moreover, Rawls’s justification of those duties is clearly based on the interests that sentient animals have in experiencing pleasure, avoiding pain and pursuing or living their own “forms of life”. If it is the interests of sentient animals that “impose” duties on us, those animals must be moral subjects. So, it seems that Rawls does not want to exclude sentient animals from the community of moral subjects but only from the community of justice. As he puts it, “A conception of justice is but one part of a moral view” (Rawls 1999, 448).

Rawls notes that his “considered beliefs” about our duties to animals cannot be justified using the “contract doctrine”, which he has used to develop his theory of justice among humans:

⁷ “Potential” is needed to cover the case of children. See Rawls 1999, 442.

⁸ It is less clear that our duties are *to* species. In Rawls 1993, 245 he suggests that biodiversity may have important instrumental benefits for humans.

“I shall not attempt to explain these considered beliefs. They are outside the scope of the theory of justice, and it does not seem possible to extend the contract doctrine so as to include them in a natural way.” (Rawls 1999, 448)⁹

Moreover, it is not just that our duties to animals depend on a moral theory that goes beyond the scope of a theory of justice; they also depend on a metaphysical theory of our place in nature:

“A correct conception of our relations to animals and to nature would seem to depend upon a theory of the natural order and our place in it. One of the tasks of metaphysics is to work out a view of the world which is suited for this purpose; it should identify and systematize the truths decisive for these questions.” (Rawls 1999, 448–9)

In hindsight, we can see Rawls grappling here with distinctions and connections that are developed in his later work. In *Theory* he is already making a distinction between justice and morality and connecting morality—at least in the case of relations to nonhuman nature—to metaphysics. We will see in a moment how this is revised in *Political Liberalism* by the introduction of the idea of the “political”.

The final two sentences of Rawls’s brief discussion of nonhuman nature in *Theory* also foreshadow later developments in his work. We have seen that he believes that a correct account of our relations to nonhuman nature must wait for a metaphysical theory. He concludes by considering how such a theory might affect his own theory of justice among humans:

“How far justice as fairness will have to be revised to fit into this larger theory it is impossible to say. But it seems reasonable to hope that if it is sound as an account of justice among persons, it cannot be too far wrong when these broader relationships are taken into consideration.” (Rawls 1999, 449)

There are three interesting features of this suggestion. First, Rawls allows for the possibility that justice as fairness may need to be revised to bring it into line with the “larger theory”. This seems to imply that it is possible that our duties to nonhuman nature may be prior to our duties of justice to persons. Second, Rawls uses the phrase “justice among persons” rather than “justice” to describe justice as fairness. This might be taken to suggest that it is possible that our duties to

⁹ Some of Rawls’s critics have argued that it is possible to extend the contract doctrine—most frequently by “thickening” the “veil of ignorance”. See, for example, Vandevver 1979 and Singer 1988. For critical commentary see, for example, Dobson 1998, 170–1 and Thero 1995, 99–105. My own view is that the debate over whether the idea of choice behind a “thickened” veil is or is not intelligible is beside the point. The fundamental moral issue is whether or not the community of justice should be extended. The “original position” and the “veil of ignorance” are simply constructed to reflect our prior judgement on that issue; they are in Rawls’s terms merely a “device of representation or, alternatively, a thought-experiment for the purpose of public- and self-clarification” (Rawls 2001, 17).

nonhuman nature are duties of justice. Third, he suggests that it is “reasonable to hope” that the theory of justice among persons will fit as a “module” into the larger metaphysical and moral theory of our relations to nonhuman nature (Rawls 1993, 12). This suggests two features of political liberalism, namely, the idea that a theory of justice might be “freestanding” and the idea that it might be endorsed by one true (and many “reasonable”) “comprehensive doctrines”. I discuss these ideas below.

So far, I have considered only Rawls’s brief remarks in *Theory*. I have noted that Rawls clearly distinguishes justice among persons from our duties to nonhuman nature. However, I have suggested that (a) he leaves open the possibility of justice to nonhuman nature; and (b) he is committed to some duties to nonhuman sentient animals (and may be committed to duties to some species).

His discussion of “our relations to animals and the order of nature” is similarly brief in *Political Liberalism* (Rawls 1993, 245). It is raised as the fourth of four “problems of extension . . . [which] may seem unanswerable from within a political conception [of justice]” (Rawls 1993, 244). Rawls believes that justice as fairness “can reasonably be extended to cover the first three problems” (justice to future generations, international justice and justice in health care) (Rawls 1993, 245). As he puts it:

“In each case we start from the status of adult citizens . . . and proceed from there: forward to other generations, outward to other societies, and inward to those requiring normal health care.” (Rawls 1993, 245)

Rawls suggests that we “can do the same with the claims of animals and the rest of nature” but his account of how we might do that is strikingly different. In each of the other cases, the development of “reasonable” principles involves finding a way of taking into account (some of) the interests of those affected (Rawls 1993, 245). In the case of animals and the rest of nature, Rawls (1993, 245) suggests that we might adopt “the traditional view of Christian ages” according to which “[animals] and nature are seen as subject to our use and wont”. On this strongly anthropocentric view, “the nonhuman world [is seen] purely as a means to human ends” (Fox cited in Dobson 2000, 51). Rawls (1993, 245) suggests that this view “has the virtue of clarity and yields some kind of answer” to how we should treat animals and the rest of nature. In particular, he argues that this view does allow for “political” reasons for protecting nature, such as “foster[ing] species of animals and plants for the sake of biological and medical knowledge with its potential applications to human health” (Rawls 1993, 245). However, these “human-instrumental” reasons cannot ground (moral) duties *to* nonhuman nature.¹⁰

Rawls (1993, 245) claims that the “human-instrumental” approach “gives what many have found to be a reasonable answer to the status of animals and the rest of nature”. I’m not sure how “many” have found it a “reasonable answer” especially in the case of domesticated animals.¹¹ However, Rawls (1993, 245)

¹⁰ The term “human-instrumental” is from Dobson 2000, 51.

¹¹ On the “ubiquity” of our—and other cultures’—normative categorisations of animals and the rest of nature see Barry 1999, 52.

recognises that “some will not accept these values as alone sufficient to settle the case”. On the evidence of *Theory*, it would seem that Rawls is one of those who would not be satisfied but the example he gives is of a person whose “attitude toward the world is one of natural religion” (Rawls 1993, 245). On this kind of view, “human beings should assume a certain stewardship toward nature and give weight to an altogether different family of values” (Rawls 1993, 246). Rawls does not suggest that someone who rejects the “human-instrumental” approach to nonhuman nature is making any kind of mistake. Instead, he relies again on the distinction between justice and morality. Political liberalism provides the resources to formulate that distinction more precisely: “[The] status of the natural world and our proper relation to it is not a constitutional essential or a basic question of justice” (Rawls 1993, 246). To understand how Rawls’s position has developed we need to look more closely at the distinction between “comprehensive” and “political” liberalism.

Comprehensive liberalism affirms liberal principles of justice as true. They are part of a comprehensive ethical or philosophical doctrine. Political liberalism begins from the “fact of reasonable pluralism”—“the fact of profound and irreconcilable differences in citizens’ reasonable comprehensive religious and philosophical conceptions of the world” (Rawls 2001, 3). If reasonable citizens cannot agree on a single comprehensive doctrine, they cannot agree on the truth of any comprehensive liberal theory. In *Political Liberalism* Rawls (1993, xviii) argues that “it is clear” that *Theory* “regards justice as fairness... as [a] comprehensive... doctrine”. Therefore, justice as fairness (as understood in *Theory*)—like any comprehensive doctrine—can be reasonably rejected and could only be maintained through oppression.¹² Political liberalism responds to the fact of reasonable pluralism by looking for “free-standing” principles of justice that can be accepted for “a specific subject, namely, the basic structure of a democratic society” (Rawls 2001, 181; 2001, 26). Political principles of justice are not derived directly from any comprehensive doctrine but rather are “formulated so far as possible solely in terms of fundamental ideas familiar from, or implicit in, the public political culture of a democratic society” (Rawls 2001, 27). More precisely, political liberalism begins from “the idea of society as a fair system of cooperation and the idea of citizens as free and equal”—ideas that are implicit in (or underlie) the idea of a democratic society (Rawls 2001, 27). From these fundamental ideas that should provide common ground for all democrats, political liberalism works out principles of justice that apply only to the “society’s basic structure—that is, its main political and social institutions and the way they hang together as one system of cooperation” (Rawls 2001, 8). Political principles of justice govern only a limited sphere; they do “not apply directly to associations and groups within society” who may generally govern their internal affairs according to their own comprehensive doctrines (Rawls 2001, 26).¹³

Rawls’s claim (1993, 246) that “the status of the natural world and our proper relation to it is not a constitutional essential or a basic question of justice” means

¹² See Rawls 2001, 34 on the “fact of oppression”.

¹³ Of course, the basic structure does set some limits (e.g., individual rights) that will limit the activities of associations and groups (e.g., preventing them from coercing their members).

that it is not governed by the political conception of justice. This is hardly surprising given that the political conception of justice is derived from the idea of a cooperative democratic society of citizens. Any view of our relation to non-human nature is part of a comprehensive doctrine. So, the believer in “natural religion” as well as anyone else who has a particular view of our responsibilities to nature can be said to hold a particular comprehensive doctrine. This is compatible with Rawls’s claim in *Theory* that our relations to nonhuman nature depend upon a metaphysical theory of the natural order and our place in it. However, Rawls’s recognition (1999, 448–9) of the fact of reasonable pluralism means that he doesn’t talk in terms of “work[ing] out a view of the world . . . [which] should identify and systematize *the truths decisive* for these questions [about our relations to nonhuman nature]” (emphasis added). Instead, he recognises the possibility of a plurality of reasonable views about our relations to non-human nature. We should not expect to work out a metaphysical and ethical theory of our proper relation to nonhuman nature on which everyone can agree but we can expect there to be many competing accounts in society.

So far, I have suggested that Rawls’s view of our relation to nonhuman nature in *Political Liberalism* is compatible with his account in *Theory*. However, the move to political liberalism does have two significant effects on his position. First, the fundamental divide in political liberalism is between political values and comprehensive values. Therefore, Rawls *qua* political liberal is not entitled to make any claims about the kind of comprehensive doctrine that will give a proper account of our relation to nonhuman nature. In particular, he is not entitled to claim that we need a metaphysical theory as opposed to a (purely) ethical theory. In this respect, political liberalism does not need to add any support to the “second turn” of deep ecology “away from axiology to ontology” (Barry 1999, 13; see also Dobson 2000, 50). A comprehensive doctrine that provides an ethical theory but abstains from metaphysical and ontological claims might be as *reasonable* as a ‘deeper’ theory. Of course, Rawls *qua* citizen of a democratic society might believe—as part of his comprehensive doctrine—that a *true* (or even a plausible candidate for a true) account of our proper relation to nonhuman nature must be a metaphysical theory.

Second, political liberalism allows that issues that are not (or not primarily) matters of political justice should be decided by democratic processes in which “citizens can vote their nonpolitical values and try to convince others accordingly” (Rawls 1993, 246). In other words, citizens are allowed to appeal to their comprehensive doctrines in democratic debate. Moreover, a Rawlsian just state can legitimately make policy on the basis of comprehensive reasons that have won out in the democratic process. Rawls offers this example:

“[A] bill may come before the legislature that allots public funds to preserve the beauty of nature in certain places (national parks and wilderness areas). While some arguments in favor may rest on political values, say the benefits of these areas as places of general recreation, political liberalism . . . does not rule out as a reason the beauty of nature as such or the good of wildlife achieved by protecting

its habitat. With the constitutional essentials all firmly in place, these matters may appropriately be put to a vote.” (Rawls 2001, 152, n. 26)

If enough people hold comprehensive doctrines that support nature preservation (generally or in particular cases), a liberal state can legitimately adopt such a policy.¹⁴

Rawls’s example explicitly refers to “the beauty of nature as such” and “the good of wildlife” as comprehensive reasons that might be used to justify voting for nature preservation. The examples may reflect Rawls’s own commitments. His reference to “the good of wildlife” seems to be another expression of his “considered belief” that the “capacity for feelings of pleasure and pain and for the forms of life of which animals are capable clearly impose duties [on us]” (Rawls 1999, 448). His reference to “the beauty of nature as such” may reflect a commitment to the aesthetic value of nature. However, there are no obvious grounds for claiming that other comprehensive doctrines—including biocentric and ecocentric doctrines—cannot be appealed to as reasons for nature preservation or other environmental policies. Liberal citizens are entitled to vote their ecocentric ideals and a liberal state may promote ecocentric policies that have been endorsed through the democratic process.

It might still be objected that political liberals could not accept the idea of ecological *justice*. Aren’t political liberals committed to the idea that justice *is* political justice? On this account, political liberalism might allow that a liberal state could pursue policies based on comprehensive ecological ideals but it could not conceive of those ideals as ideals of ecological *justice*. Liberal ecologism might be founded on widespread “ecological consciousness”, commitment to “ecological virtue”, or even the recognition of “duties of compassion and humanity” but it cannot be founded on a belief in ecological justice (Sessions cited in Barry 1999, 15; 1999, 31; Rawls 1999, 448). In some respects, this may be a linguistic rather than a substantive dispute.¹⁵ If we are prepared to say that the liberal state can make policies based on the beliefs of its citizens about the right and wrong way to treat nonhuman nature, it may not matter whether we talk in terms of ecological justice. However, even if it is a linguistic dispute, I think it might be one on which political liberals should side with the language of ecological justice. The purpose of adopting political liberalism is to find a conception of justice that can be accepted by all reasonable persons irrespective of their comprehensive doctrines. In Rawls’s terms, the hope is that there can be an “overlapping consensus” among comprehensive doctrines on the political conception of justice (Rawls 2001, 32). If an advocate of ecological justice can still endorse the political conception of justice, there is no obvious reason why they should not use the language of justice

¹⁴ It is noteworthy that for political liberals the key issue is whether people support particular policies not why they support those policies. In this respect, political liberalism is in tune with the emphasis of theorists such as Barry and de-Shalit on the priority of policy agreement over philosophical dispute. See, for example, Barry 1999, 29.

¹⁵ In a similar way to Singer’s suggestion that the debate over whether our duties to nonhuman animals imply that they have rights. See Singer 2003, 58–9. For a similar argument see Taylor 1986, 254–5.

as part of their comprehensive doctrine. Of course, the political liberal must insist that everyone appeal only to political values on issues of political justice—i.e., constitutional essentials and questions of basic justice—but on other issues we should not rule out ecological justice arguments. We might insist that people are clear that they are making an ecological justice rather than a political justice argument but in truth we are unlikely not to notice the difference.

3. Some Likely Objections

I have argued that Rawlsian political liberals can endorse a conception of ecological justice and a Rawlsian liberal state can pursue democratically-chosen policies based on principles of ecological justice. In this section, I want to consider two likely objections to the idea of liberal ecologism that might be offered by ecologists.¹⁶

First, it might be claimed that liberal ecologism remains substantively biased toward humans.¹⁷ Rawls makes it clear that in addition to an overlapping consensus on the political principles of justice there must also be an overlapping consensus on the priority of the political conception of justice over comprehensive doctrines:

“[How] can the values of the special domain of the political—the values of a subdomain of the realm of all values—normally outweigh whatever values may conflict with them? Put another way, how can we affirm our comprehensive doctrine and yet hold that it would not be reasonable to use state power to gain everyone’s allegiance to it?” (Rawls 1993, 139)

Rawls’s point is that unless the political values dominate our comprehensive doctrines we will have no reason to adhere to liberal principles of justice. So, unless advocates of ecological justice accept the primacy of political justice over ecological justice they cannot be part of an overlapping consensus that supports liberal principles of tolerance and justice. However, we have seen that the political values are “human-instrumental” values. A political good contributes to (certain aspects of) the well-being of *citizens*. It seems that liberal ecologism requires that we give priority to humans over nonhuman nature.

There is no doubt that this objection is valid. Liberal ecologists must be liberals first and ecologists second. A commitment to liberalism is a commitment to (certain aspects of) the well-being of (human) citizens. Therefore, liberal ecologists must be substantively biased towards humans; they must give some kind of priority to (some) human interests over nonhuman interests. Liberal ecologists must reject “biospherical egalitarianism in principle” (Naess cited in Dobson 2000, 43).¹⁸ Fortunately, most ecologists do reject biospherical egalitarianism.

¹⁶ I have considered two additional objections, which question the internal consistency of (this interpretation of) Rawls’s political liberalism in Bell 2002, 710–21.

¹⁷ I avoid the term “speciesism” because it might be understood to imply that ecological justice is necessarily only concerned with justice between humans and nonhuman *individuals*.

¹⁸ Liberal ecologists must also reject the kind of communitarian view associated with Leopold

Typically, they recognise that it “makes every decision a moral ‘toss-up’” because it presents us with “infinite and irresolvable conflicts” (Baxter 1999, 78; Norton 1991, 224).¹⁹ They also recognise that humans must be able to treat species that are harmful to humans—“the smallpox virus is a candidate example”—differently from those that are not (Baxter 1999, 82).²⁰ In general, ecologists “[construct] a *hierarchy* of valued entities and collections of entities” (Dobson 2000, 43). As Andrew Dobson (2000, 44) notes, “Complexity is a favourite datum around which to construct the requisite hierarchies”. For example, Freya Matthews (1991, 123) claims that “[T]he greater the complexity of a living system . . . the greater its power of self-realisation . . . [and] the greater the intrinsic value . . . it may be said to embody”. In other words, most ecologists are committed to “a principle of biospherical inegalitarianism” that is substantively biased toward humans (Dobson 2000, 44).

Ecologists might be able to accept the idea of a substantive bias toward humans (citizens) but they might still object to the extent of the bias that liberal ecologism would demand. Rawls’s political liberalism may seem especially vulnerable to this criticism because of the content of his principles of justice, in particular, the difference principle.²¹ For example, John Barry (2001, 75) claims that “Rawls’s difference principle . . . hinges on ensuring a growing economy and rising levels of material wealth”. I have argued elsewhere that neither Rawls’s difference principle nor any other part of his political conception of justice commits him to economic growth (Bell 2002, 712–16). As Rawls (2001, 64) argues justice as fairness is compatible with “Mill’s idea of a society in a just stationary state where (real) capital accumulation may cease”.

However, justice as fairness does require certain commitments to human (citizen) well-being. In general, it requires that the “circumstances of justice” be maintained (Rawls 2001, 84). In other words, we must live in conditions of “moderate scarcity” such that it is possible “for all to have a decent standard of life” through “social cooperation” (Rawls 2001, 84). Rawlsian liberalism cannot allow us to choose democratically to impoverish our fellow citizens to the point that they cannot “have a decent standard of life”. However, Rawls does not offer a definitive account of what constitutes a “decent standard of life”. From his principles of justice, we know that basic needs must be met, political and civil rights protected, and fair equality of opportunity secured but we do not know that a particular standard of living is required.

The question for ecologists is whether or not Rawlsian liberalism necessarily demands too much bias toward human beings. John Barry’s discussion of what he calls an “ethics of use” would suggest that it does not:

“[E]nvironmental policies which negatively affect human welfare are

that appears to give no independent moral standing to individuals, including humans. In addition, they must reject the “Earth First!” view that “[we] should be kind, compassionate, and caring with other people but Earth comes first” (Foreman 1998, 449).

¹⁹ See also Dobson 2000, 43; Eckersley 1995, 190; Low/Gleeson 1998, 139; 144.

²⁰ See also Barry 1999, 52 on treating animals differently. Contrast Foreman 1998, 449–50.

²¹ “Social and economic inequalities . . . are to be to the greatest benefit of the least advantaged members of society.” (Rawls 2001, 42–3)

more defensible than those which compromise fundamental human liberties... What this means is that environmental policies which threaten central human liberties, such as the right to elect and influence government, or formative elements of human identity, for example need fulfilment beyond subsistence, are deemed illegitimate and prohibited in any but the most pressing circumstances. In this manner green politics accepts that trade-offs in any conflict between the two ethical spheres [human-human and human-nonhuman] are limited to possible sacrifices in human economic welfare and what Norton calls 'consumptive values' ... This priority rule is widely endorsed even within non-anthropocentric positions when it comes down to questions of implementation and actual policy proposals." (Barry 1999, 63)

I think Barry is right that ecologists often pin their colours to some version of the divide between basic needs and unnecessary consumption with political and civil rights firmly on the side of basic needs. Norton notes that even deep ecologists, such as Devall and Sessions, concede that "Nonhuman nature should be used... for *vital* needs" (Devall/Sessions cited in Norton 1992, 221). Of course, Norton might be right to worry that Devall and Sessions' conception of "vital needs" may offer a very "ascetic lifestyle" (Norton 1999, 222). Moreover, he might be right to "[doubt] that they will find many followers in their ascetic lifestyle" so their version of ecologism might be particularly unlikely to be chosen democratically (Norton 1992, 222). However, unless their conception of vital needs is narrower than the standards set by the political conception of justice, their version of ecologism may still be compatible with political liberalism.

I have argued that liberal ecologism must be substantively biased toward humans because it is liberal first and ecologist second. However, I have suggested that only the most extreme versions of ecologism are likely to find the degree of substantive bias required by Rawlsian political liberalism unacceptable.

Ecologists might make a second objection to the idea of liberal ecologism. Even if they were to accept liberal ecologism's substantive bias toward humans, they might object to its procedural bias toward humans. Citizens make decisions about environmental policy and all citizens are humans. Nonhuman nature is not enfranchised. This might trouble ecologists for two kinds of reasons. The principled objection is that if nonhuman nature is affected by the outcomes of democratic decisions, it should be properly represented in the decision-making process. As Robert Goodin (1996, 837) says, "The whole thrust of modern democratic theory is to reject arbitrary delimitation of the subjects whose interests are to be politically considerable". On Goodin's account, all interests ought to be "represented politically" (Goodin 1996, 837). The consequentialist objection is that unless nonhuman nature is politically represented it will be ignored. In a liberal democracy, citizens (humans) will choose policies that are strongly biased toward human interests. So, liberal ecologism may be a theoretical possibility but it is not likely to become reality.²²

²² For a similar point see Dobson 2000, 166.

The principled objection is based on a version of “moral extensionism” (Barry 1999, 27). The general procedure is to identify a feature or “faculty, X” that “beings [must] possess to be entitled to moral considerability” (Dobson 2000, 169). Goodin’s particular version claims that the feature that justifies political representation is having interests that can be represented. Of course, there are problems with extending the democratic community to include nonhuman nature as fellow citizens with humans. Given that nonhuman nature cannot represent itself, humans will have to represent it. If we remember the consequentialist objection, we might reasonably worry that humans might not do a very good job of representing the interests of nonhuman nature.²³ However, my concern is not that political representation will not work but rather that it is unjustified.

Moral extensionists often make reference to the historic expansion of the moral community to include previously excluded humans. For example, Goodin in his defence of political representation of the interests of nonhuman nature says:

“It is simply no longer acceptable to disregard certain interests, simply on account of whose interests they are (blacks’ or women’s or whomsoever’s).” (Goodin 1996, 837)

The familiar claim is that if racism and sexism are unjust “speciesism” must also be unjust. The problem with this argument in the context of political representation is that it ignores an important distinction between “moral agents” and “moral subjects” that most ecologists accept (Taylor 1986, 14–18). Moral subjects are worthy of moral consideration; they have moral standing. Moral agents are capable of acting morally; they have moral responsibilities and duties. All moral agents are also moral subjects but not all moral subjects are moral agents (Taylor 1986, 18–19). Both moral agents and moral subjects have interests. Blacks and women are moral agents. Nonhuman nature is a moral subject; nonhuman individuals are moral subjects.

Moral agents can be treated unjustly in two ways. If their interests are given insufficient weight, they are not accorded the moral consideration that they are owed (*qua* moral subjects). If they are excluded from the democratic community, their capacity (*qua* moral agents) to take responsibility for their actions is not respected. Racism and sexism have generally involved both kinds of unjust treatment. The suggestion that nonhuman nature should be entitled to political representation because it is worthy of moral consideration fails to distinguish between these two kinds of injustice. The interests of nonhuman nature should be *protected* because as a moral subject it is worthy of consideration. However, the claim that the interests of nonhuman nature should be *represented* implies

²³ Andrew Dobson has suggested that we introduce novel institutional mechanisms such as “proxy representatives, elected by proxy constituencies, to represent ‘directly’ the interests of . . . nonhuman nature in national and transnational legislatures” (Dobson 2000, 123). Dobson’s suggestion might help to overcome the problem of moral back-sliding among humans. However, it is unlikely to eradicate it for the same sort of reasons that Ted Benton argues that rights are unlikely to protect nonhuman nature, namely, that such protection depends on “those who have the power to abuse them . . . [being] already benevolently disposed to [them].” (Benton cited in Dobson 2000, 170)

that nonhuman nature should be a citizen (or citizens) of the democratic community. There is no injustice in excluding nonhuman nature from the democratic community because the purpose of inclusion is to recognize a moral agent's responsibility for her conduct.²⁴ If nonhuman nature is not a moral agent and bears no responsibility for its conduct, its exclusion from the democratic community does not fail to show respect for it. In sum, there is no principled reason why most ecologists should believe that humans and nonhuman nature are both "plain citizens".²⁵ Instead, their willingness to recognise the distinction between moral agents and moral subjects should lead them to the conclusion that while nonhuman nature is entitled to protection only humans are entitled to citizenship.

So far, I have argued that the principled objection to liberal ecologism's procedural bias toward humans is not consistent with the commitments of many ecologists. It might still be objected that without representation the interests of nonhuman nature would be ignored or, at least, given insufficient weight. Humans won't vote for policies that protect nonhuman nature at the expense of human consumption. This may be true but even with representation it has to be humans that are voting (as proxies) for policies that protect nonhuman nature. The only way to include nonhuman nature in the democratic process is to give *some* human citizens the right to represent them. If we want them to genuinely represent the interests of nonhuman nature, we must ensure that they are ecologists. In other words, the real alternative to democratic endorsement of policies that protect the interests of nonhuman nature is not an inclusive 'democracy' but rather 'ecological oligarchy' or 'ecological constitutionalism'.²⁶

An ecological oligarch and a liberal ecologist both believe that their ecological doctrine is true but the ecological oligarch rejects the fact of reasonable pluralism (about the moral status of nonhuman nature). The ecological oligarch wants to see rule by enlightened advocates of ecologism. He is willing to abandon (genuine) democracy and show disrespect toward moral agents (who he considers to be acting immorally) to protect the interests of nonhuman nature. An ecological constitutionalist similarly rejects the fact of reasonable pluralism (about the moral status of human nature) but rather than advocating rule by enlightened advocates of ecologism, he advocates constitutional protection for nonhuman

²⁴ Brian Baxter 2005, 100 has argued in response to an earlier version of this paper that the focus on "responsibility" is misplaced. Instead, he argues that "the focus in arguing for representation is on interests, not on responsibility" (Baxter 2005, 100). His argument relies on an ambiguity in the notion of "representation". It is true that the interests of "babies and very young children" as well as nonhuman nature should be "represented" in the sense that citizens (and the state) should take them into consideration when making political (and moral) decisions (Baxter 2005, 100). However, my claim is that a democracy is best understood as a community of (autonomous and responsible) moral agents deciding how to live their collective life and how to relate to non-members (including nonhuman nature). I'm very happy to offer a general defence of this conception of democracy against alternative versions (including Baxter's) but, more importantly for the purposes of this paper, I believe that it is consistent both with many versions of ecologism (which recognise the agents-subjects distinction) and with political liberalism.

²⁵ The phrase is associated with Aldo Leopold. See Leopold 1998, 413.

²⁶ Brian Baxter 2005, 100–101 makes clear the importance of the constitutional alternative.

nature. It is the constitution that must include the enlightened principles of ecologism and it is the judiciary who must protect the interests of nonhuman nature—not because they are advocates of ecologism but rather because they are defenders of the constitution. For the political liberal, ecological constitutionalism is a step too far because it places limits on the demos that are inconsistent with the fact of reasonable pluralism (about the moral status of nonhuman nature). In other words, it fails to show proper respect for the views of those moral agents who reject the principles of ecologism. The political liberal accepts the idea of constitutional limits on the demos (including, for example, basic rights and freedoms for citizens) but these cannot be extended to include constitutional protection for nonhuman nature.

Despite the emphasis on democracy in green political theory, I suspect that there may be a significant number of ecologists committed in principle to protecting the interests of nonhuman nature even at the cost of failing to respect the moral agency or the moral views of those who do not live up to the principles of ecologism. There may be relatively few ecological oligarchs but there may be rather more ecological constitutionalists. Of course, many will recognise that in practice the risks of pursuing the oligarchic route are too high and the only way of pursuing the constitutional route is by persuading one's "fellow citizens to agree to the appropriate constitutional amendments" (Baxter 2005, 101). Therefore, they will devote their attention to persuasion and education (rather than revolution) in the hope that more citizens will come to share their doctrine. They may not be liberal ecologists in principle but they are liberal ecologists in practice. However, they may depart from liberal ecologism in their desire to achieve constitutional protection for nonhuman nature.

In summary, I have argued that liberal individuals—as understood in Rawls's political liberalism—can be committed to principles of ecological justice. Similarly, liberal states can legitimately pursue democratically-chosen policies motivated by principles of ecological justice. I have also argued that liberal ecologism should be acceptable to many ecologists. Political liberalism is not more substantively biased toward humans (and their interests) than most versions of ecologism. Furthermore, most ecologists do not have a principled reason for objecting to political liberalism's procedural bias toward humans. In short, liberalism and ecologism may be much more compatible than most commentators have suggested. If there is a problem for liberal ecologism, it is that some ecologists are not (in principle) democrats while others are committed to imposing constitutional limits on democracy to protect nonhuman nature. Political liberalism is compatible with full (democratic) protection of nonhuman nature but it is not compatible with ecological constitutionalism.²⁷

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²⁷ The author would like to thank Brian Baxter for discussion of an earlier version of this paper.

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